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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,097	04/10/2001	James C. Kennedy	HES-001	8877
51414 7590 03/23/2007 GOODWIN PROCTER LLP PATENT ADMINISTRATOR EXCHANGE PLACE BOSTON, MA 02109-2881			EXAMINER SHORTLEDGE, THOMAS E	
			ART UNIT	PAPER NUMBER
			2626	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/833,097	KENNEDY ET AL.	
	Examiner	Art Unit	
	Thomas E. Shortledge	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to Remarks, filed 01/08/2007.
2. Claims 1-72 are pending. Claims 1 and 27 are independent and have been amended. Claims 73-90 have been canceled.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/08/2007 has been entered.

Response to Arguments

4. Applicant's arguments, see Remarks, filed 01/08/2007, with respect to claims 1-72 have been fully considered and are persuasive. The 35 USC 103(a) of claims 1-72 has been withdrawn.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-72 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1 and 27, the following is the analysis that was performed:

Does the claimed invention fall within a §101 judicial exception - law of nature, natural phenomena or abstract idea? Yes, the claimed limitations describe an algorithmic process, and thus correspond to an abstract idea. Does the claimed invention cover a §101 judicial exception, or practical application by producing a physical transformation or a tangible result? No. The final step is the "automatically determining whether the at least one provision applies to the claim..." which is neither a physical transformation nor a tangible result. Thus claim 1 is non-statutory under §101.

Claims 2-26 and 28-72 are rejected for failing to cure the deficiencies of their respective parent non-statutory claims.

Allowable Subject Matter

6. Claims 1-72 would be allowable if the claims were rewritten to overcome the above 35 U.S.C. 101 non-statutory rejections.

Claims 1 and 27 would be allowable since they recite a method of processing a claim comprising receiving information corresponding to a context free grammar expression of at least one provision governing claim adjudication, receiving information corresponding to a claim, calculating a score representing a confidence that the received information corresponding to the claim includes sufficient information to identify a provider and a member, determining if the calculated score exceeds an auto-adjudication threshold, and if so, automatically determining whether the at least one provision applies to the claim based on the received information corresponding to the context free grammar expression of the at least one provision and the received information corresponding to the claim. Peterson et al. (6,343,271 B1) teach an adjudicating system where the health care provider is able to download a form to prepare claims; the form is used to adjudicate the claims. Where the information pertaining to the claims is inputted and the information is supplied to the auto-adjudication system by a set of rules based on criteria set by the insurer (col. 8, lines 16-20 and col. 9, lines 20-36). Trower II et al. (6,922,810) teach using a context free grammar to create an expression for input to a database information retrieval system (col. 5, lines 35-44). Peterson et al. in view of Trower II et al. do not teach nor fairly suggest calculating a score representing a confidence that the received information corresponding to the claim includes sufficient information to identify a provider and a member, determining if the calculated score exceeds an auto-adjudication threshold

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and if so, automatically determining whether the at least on provision applies to the claim.

Claims 2-26 and 28-72 would be allowable since they depend from the above claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas E. Shortledge whose telephone number is (571)272-7612. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TS
3/20/07



RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER